

**Minutes of the Regular Meeting of the
Buena Vista Planning and Zoning Commission
May 6, 2009**

Call To Order

Chairwoman Baker called the meeting to order at 6:02 p.m. at the Buena Vista Community Center, Pinon Room 715 East Main Street, Buena Vista, Colorado.

Pledge of Allegiance

Chairwoman Baker led the Pledge of Allegiance.

Roll Call

Chairwoman Baker called for the roll. Deputy Town Clerk Dixon took the roll and declared a quorum. In attendance were Chairwoman Baker, Commissioners Selby, Palmer, Woodhouse and Livingston. Also present was Town Administrator Sue Boyd. Absent were Commissioner Keller and St. Germain.

Agenda Adoption

Chairwoman Baker called for amendments to the agenda. There were none. **Motion #1 Commissioner Woodhouse moved to approve the agenda as presented. Commissioner Palmer seconded. Motion carried unanimously.**

Approval of the Minutes

Chairwoman Baker called for approval of the April 15, 2009 minutes there were no changes. Deputy Town Clerk Dixon mentioned a change under call to order the room should be Pinon not Aspen. **Motion #2 Commissioner Palmer moved to on to approve the minutes after the change has been made. Commissioner Woodhouse second. Motion carried unanimously.**

Public Comment Period

Chairwoman Baker asked if there were any public comments.

Keith Krebs, 12977 County Road 261C, Nathrup, Colorado. Representing the Arkansas Valley Humane Society as a board member and licensed architect.

Mr. Krebs gave a brief history of his building permit application. He stated he was on the agenda for tonight's meeting and under his protest was removed by the Town Administrator. Mr. Krebs would like to request this be added back on the agenda or schedule a special session.

Chairwoman Baker asked the Planning and Zoning Commission if they would like to add this to the agenda. Commissioner Selby requested more information regarding the request.

Town Administrator Sue Boyd gave a brief summary of Mr. Krebs request. The application was received at the time when our Town Planner had left. We placed this on the agenda because after meeting with Mr. Krebs it seemed the primary thing needed was an approved landscape plan This is a proposal to build a temporary structure to serve as a cat intake facility for up to five years. It was on the agenda as a review approval for a landscape plan question. It came to my attention, which was missed in the first review, there is to be no water or sewer connection to this facility. This raised some concerns at the last minute. In order to address the issue there was not enough time to provide full analysis of that, or to meet with the applicant to discuss the issue, which was our primary reason for pulling it from the agenda.

Administrator Boyd said she did a little more research since the last conversation with Mr. Krebs. She explained that Section 13-43 of the BV Municipal Code requires connection to water and sanitary sewer system, but that staff had not had an opportunity to discuss that matter with the applicant. The other question is whether or not the use that is proposed is appropriate for the lot. Staff is looking at whether this permit also requires a special use or variance in addition to the basic building permit. At this point the applicant has not submitted a variance application or special use permit. Staff has not had a chance to talk this over with the applicant since the discovery. Staff alerted the applicant to the fact that the item was pulled from the agenda for this reason.

Chairwoman Baker asked the Commissioners if they wished to add this on as new business item B. After a brief discussion it was added to the agenda to hear Mr. Krebs presentation. **Motion #3 Commissioner Livingston made a motion to add under New Business B the Ark Valley Humane Society request. Seconded by Commissioner Palmer. Motion carried unanimously.**

New Business

A. Buena Vista School District R-31 Lot Line Adjustment

Town Administrator Sue Boyd gave a brief summary of the Lot Line Adjustment application. The application calls for lot line adjustments and consolidation of 98 old town lots to create three new lots. Lot 1 contains the School. Lot 2 contains the Administration Building and the old Gymnasium. Lot 3 contains the Bus Garage. In a closer look at the code, the lot line adjustment is appropriate for a subdivision exemption. However, the code only allows this to be done to create a single lot. The fact that the school in conjunction with this request is proposing to create three new lots makes this project require approval of a minor subdivision. The staff has reviewed this and the staff is recommending approval of the lot line adjustment contingent on the approval of the minor subdivision to create the three new lots. At this point the applicant has not had the opportunity to submit the subdivision application.

Chairwoman Baker asked if this would have any bearing on the complaints received regarding the maintenance, buses running, and the fumes. Administrator Boyd stated that indirectly this is going to position the school board to create a solution to this problem. The concern is whether making changes to the bus garage would prevent any improvements on the bus garage situation. It is the belief of Administrator Boyd the situation regarding the bus garage would improve. It is difficult for the school to address the situation with the lots configured as they are right now.

John Roorda of Arkansas Valley Surveying. This is a step by the school district to address this issue. He said that he could not speak for the school district, however they have addressed to me that they are looking for another location for the bus garages. Otherwise the school is looking to perpetuate current conditions. This application will also provide the opportunity to Buena Vista Heritage to purchase the gymnasium and allow the town to possibly utilize the bus garage area as public parking.

After discussion it was suggested that everything come as a complete proposal before it went before the Board of Trustees as a complete package. Town Administrator Boyd stated the process requires notice to neighbors, and that has not been done. It cannot be approved as a minor subdivision until an application has been submitted. Section 17-26 (d) (2) of the code allows for the elimination of lot lines without a subdivision process, but only to create a single lot.

Motion #4 Commissioner Selby made a motion for approval of the proposed lot line adjustments subject to the approval of a Minor Subdivision to create three new lots. Commissioner Palmer seconded. Motion carried unanimously.

B. Keith Krebs Arkansas Valley Humane Society (AVHS)

Ark Valley Humane Society is a non-profit organization. AVHS is a responsible community organization that falls under the Pet Animal Care Facility Act (PACFA.) The facility is located at 701 Gregg Drive. This area is zoned industrial with no nearby residential uses. Mr. Krebs stated the current facility and proposed facility entirely conform to the I-1 zone requirements. AVHS has a medium range capital improvements plan to build a new facility of about 10,000 square feet within a two to five year time frame. They would like to have the project completed in two years but the real world states they need a little flexibility. They are under a current capital campaign right now with great support from the community. The new facility will follow all building, zoning, and planning requirements.

This time of year there is a huge influx of cats and this creates a critical situation. This project started at the first of March. AVHS has a no kill policy. The only time they put animals down is if they have a fatal disease that is spreadable to other animals or through their testing the animal is not suitable for adoption. The cat capacity on a regular day is stretched, during this time it is overcrowded.

AVHS put a down payment on a construction type trailer for the housing of the cats. It is part of the intake process. There will be no adoptions out of this facility. The structure will function "as an animal storage out building," that will contain several cat kennels. Each kennel will have a food dish, water bowl, litter box, and cat bed. There is no sink or toilet room and no need for water or sewer services. It will comply with all FACFA requirements. There will be no public access. There will be light and heat (electric fired) provided for the comfort of the animals during the intake processing but there will only be sporadic occupancy by office staff to maintain the cats.

Mr. Krebs argued the project was submitted to Bev Kaiser who he believed had no issues and was going to approve it, as shown by her letter. The only changes to the project are related to the landscape plan in response to discussions with staff. Mr. Krebs stated that he believed Ms. Kaiser had no problem with the temporary nature of the building or water service. Mr. Krebs stated that he spoke with Bill Paradise, Chaffee County Building Department, and he believed that Mr. Paradise had no problems with the temporary nature of the building. Mr. Krebs stated that he had expected Bev Kaiser to sign off on the building permit prior to her departure; the building permit was submitted with the Town and was awaiting signature.

Commissioner Livingston inquired about the five year time frame. Mr. Krebs stated that is how long it would take to raise the funds necessary to construct a new facility.

Town Administrator Sue Boyd stated that it was unfortunate that the application got caught in the transition between Bev leaving and hiring a new planner. Ms. Boyd stated that the permit came to her attention during a meeting with staff and Mr. Krebs approximately two weeks prior. Ms. Boyd stated that she anticipated that the proposed building was a temporary building during construction. Ms. Boyd realized at that point the building would not qualify as a temporary structure due to the five year time frame. There was some discussion whether a special use permit or a variance would be appropriate; however Mr. Krebs indicated to staff that AVHS had no intention of pursuing a variance. Ms. Boyd stated that staff missed the water issue at the time of the meeting. During that meeting it was determined that an approved landscape plan would be enough to send the application to the Chaffee County Building Department.

Mr. Krebs called staff's attention to the letter from Bev and suggested it was approval of this building permit. Town Attorney Lee Phillips has reviewed the letter and has determined that it does not constitute an approval of a building permit application; the only approval that comes with a building permit application is the signature of the application itself. Administrator Boyd stated that the letter eludes, in the last paragraph, that all zoning requirements must be met. Ms. Boyd stated that the fact there was no plan to hook the building up to water or sewer was an issue. Section 13-43 (a) of the Code, states no building or structure facility of any nature that uses water shall be constructed in the town unless connected to the town's water system and sewer system unless the Buena Vista Sanitation District specifically grants an exception directly.

Ms. Boyd stated that according to the Town Attorney the intent of that statement is for storage sheds; and Mr. Phillips believes it is hard to make the case that a cat intake facility does not use water. Administrator Boyd added that the applicant suggested that they are going to carry water from the other building to this one. Staff has not had the opportunity to do complete due diligence on the question. There has been a lot of question of whether any structure in the town limits without connection to water and sewer can be allowed. Administrator Boyd thought the idea of a five year temporary structure makes the issue challenging; whether it is intended to be completely temporary or not. Ms. Boyd added that she believed that the intent of the applicant was for it to be temporary.

Chairwoman Baker asked if the BV Sanitation Board had any issues with the proposal. Administrator Boyd stated that there is not a sewer there. It is not presently served by the BV Sanitation District and it is unknown if the County Health Department would allow the building to be hooked up to the existing septic.

Chairwoman Baker asked what, in Administrator Boyd's opinion, needed to happen before this could be approved without water.

Administrator Boyd stated she wanted to call the Commission's attention to the fact that there have been other buildings in the community denied for the same reason and that she could not answer Chairwoman Baker's question without further review. Administrator Boyd stated that the building department indicated to staff that it would be unusual to approve a building such as this without connection to water and sewer.

Mr. Krebs stated the cat kennels can be cleaned with a mop and bucket.

Commissioner Palmer stated that the Commission needed to be cautious not to set precedence for future requests that might not be appropriate that the Commission would feel required to approve because of this. He would like to see it done too but it needs to be done legally.

Administrator Boyd stated that staff's desire has been to help solve this problem. Ms. Boyd added that staff is aware of the fact there is a need, but their responsibility with any request is that it meets the code requirements. Ms. Boyd also stated that there is no authority in Chapter 13 of the Code for a variance. There is a provision for variances in Chapter 16 of the Code. In order to approve the request the Commission would need to conclude that the structure will not use water.

Chairwoman Baker asked if there was something that the commission could recommend to help move this forward.

Administrator Boyd stated what was to come before the commission, prior to the discovery of no sewer and water, was a landscape plan. Ms. Boyd stated she was not sure if the documents Mr. Krebs gave the board this evening included the landscape plan, as she was not privy to them. Ms. Boyd also wanted to research precedence of similar buildings that have been denied because of no water.

Mr. Krebs stated that he felt that there should be no concern over precedence and added that there was no need to hook up water and sewer to a temporary building.

Chairwoman Baker stated that to help speed the process the Commission could approve the landscape plan based on the findings of staff.

Administrator Boyd also read Municipal Code Section 7-99 Sanitation Regulations specifically states: "The premise upon which animals or fowl are to be kept shall be maintained in sanitary conditions and shall comply with all sanitary regulations adopted by the Board of Trustees or the County Health Department. Said premises shall be at all reasonable hours subject to inspection by representatives of the Town or County Health Department. It shall be unlawful for any person to refuse to allow such inspection." Ms. Boyd stated that she believed that the County Health Department could determine if the conditions or water plan is sufficient or not; if the Health Department would allow for this then staff could possibly sign off based on that.

Motion #5 Commissioner Livingston made a motion to approve the landscape plan as submitted. Commissioner Woodhouse seconded. Motion carried unanimously.

Mr. Krebs asked what his next step would be. Administrator Boyd stated that he would need to come meet with staff and they will go over the issues as it relates to the issue of water. If the Health Department will sign off on it and Ms. Boyd could get the Public Works staff to approve then she thought staff would be in a position to sign. Mr. Krebs asked about the timing of when they could discuss this. Ms. Boyd suggested that Mr. Krebs come in the next day. He stated he would contact us first thing in the morning.

Old Business

A. Sign Code Revision: Code Selection 16-242 (1.100 Purpose & 1.200 Administration)

It was suggested that the sign code be zone based also that the code would need to move forward on this so that the Commission could focus on more pressing issues. Review the changes recommended by the Board of Trustees, review the size of the code, and come up with something that will address the banner issue. After discussion it was decided to wait for the new planner to go over the sign code.

CHAFFEE COUNTY REPORT There is nothing to report at this time.

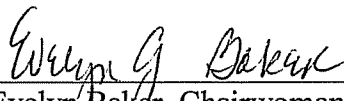
STAFF REPORT

Ms. Boyd stated that the Town has offered the Town Planner position and it has been accepted by Shannon Haydin. Her start date is June 1, 2009.

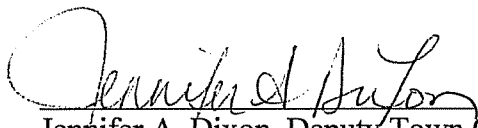
ADJOURNMENT

Motion #6 Commissioner Livingston made a motion to adjourn. It was second by Commissioner Palmer. Motion passed unanimously. Meeting adjourned 7:45 p.m.

Respectfully submitted,



Evelyn Baker, Chairwoman



Jennifer A. Dixon, Deputy Town Clerk